

Mid-Year Compliance Grab Bag Webinar

Paid Family Leave Q&A

Q: Is the 175 days consecutive days?

A: No. The standard is 175 days worked in a 52-consecutive-week period.

Q: Does PFL qualifying event for military duty include son in-law or daughter in-law?

A: No. PFL benefits arise out of *“the fact that the spouse, domestic partner, child, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the armed forces of the United States”* (Section 380-2.3).

Q: What if a person works fewer than a full day—is their regular work day considered a full day?

A: That is my interpretation. Employees with a schedule of less than 20 hours per week become eligible on the 175th day of work, regardless of the number of hours they work per week.

Q: Will there be official criteria defining “serious health conditions”?

A: Yes. Section 355.9 of the Final Regulations—*“Paid Family Leave Definitions”* defines “Serious health condition” (#16 of the definitions). The full text of the final regulations can be found [here](#).

Q: If you have maternity leave which insurance should they received, disability or PFL?

A: An eligible employee may opt to receive disability and family leave benefits during the post-partum period but may not receive both benefits at the same time.

Q: The slide shows 2016 average weekly wage. Will we always be 2 years behind? So, in 2018 we will use 2016 wage average?

A: Yes. The New York State Average Weekly Wage (NYSAWW) is determined on a calendar year basis and reported by the Commissioner of Labor to the Superintendent of Financial Services on March 31 of the following year.

Q: For the PFL, will forms be available or will our company have to create their own?

A: Marshall & Sterling will provide template forms to our clients for certain PFL items (e.g. waiver forms). The employer’s insurance carrier will supply the required PFL poster.

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Q: What if the person who took off for PFL does not return to the job?

A: The final regulations do not specifically address this issue. The Workers Compensation Board will be issuing guidance on FAQ as it arises and we expect this issue will be addressed.

Q: Will guidance be given on the language of the PFL policy?

A: Marshall & Sterling will provide consultation and information on Paid Family Leave but it does not constitute legal advice.

Q: How will we calculate average weekly wage for payroll deductions? Or will we be using their actual wages each week to calculate the percentage?

A: Actual wages will be used and you should have the ability to set this up with payroll. The maximum employee contribution for 2018 will be 0.126% of an employee's weekly wage, capped at the statewide average weekly wage, which is currently \$1,305.92. Currently, the maximum weekly contribution for employees earning \$1,305.92 or more per week is \$1.65.

Disclaimer: This Q&A document is provided for informational purposes only and is not intended as legal advice. The Paid Family Leave information is based on the applicable statutes and The NYS Worker's Compensation Board will be providing further guidance to frequently asked questions section on the official PFL website.

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